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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,459	09/23/2003	Douglas W. Gerhart	09232.0001	9476
22852 7590 12/31/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER HAVAN, THU THAO	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 12/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/667,459	Applicant(s) GERHART ET AL.	
	Examiner Thu Thao Havan	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 1-20 are pending. This action is in response to the remarks received October 4, 2007.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pretell et al. (US publication no. 2005/0004860) in view of Huttenlocher (US publication no. 2003/0093343) and further in view of Finkelstein et al. (2001/0037284)

Re claim **1**, Pretell teaches a system for managing ...for collateralized loans (para. 0011; Pretell discloses collateralized loan options), comprising:

a database supporting ... for collateralized loans comprising entries of firm offers to borrow and firm offers to lend, wherein each entry for a firm offer to borrow includes

data identifying a desired loan asset, data identifying collateral for the desired loan asset, and a unique identification of a borrower, and wherein each entry for a firm offer to lend includes a unique identification of a lender and data specifying conditions under which the lender will supply a loan to a borrower, and wherein information regarding the firm offers to borrow and the firm offers to lend from the database is made available to borrowers and lenders participating ... for collateralized loans (para. 0014, 0038, 0040-0042, and 0044); and

a computer for maintaining and querying the database and for receiving a query, and in response to the query, the computer (para. 0047):

determining whether the query reflects an offer to borrow or an offer to lend an asset (para. 0053),

based on a result of the determination, locating in the database a set of entries that match attributes of the offer reflected by the query (para. 0057),

upon locating a match using the database supporting ... for collateralized loans, creating without an option to alter attributes of the firm offer to lend and attributes of the firm offer to borrow, a secured loan between at least one borrower that submitted the firm offer to borrow and at least one lender that submitted ... identified in the set of entries that match attributes of the offer when it is determined that the query constitutes an offer to lend an asset and collateral identified in the query when it is determined that the query constitutes an offer to borrow (para. 0044, 0047, and 0053), and

notifying the at least one borrower and the at least one lender concerning the secured loan (fig. 19a);

wherein the secured loan provides the at least one lender with contingent rights to possess the collateral associated with the secured loan (para. 0052).

However, Pretell does not explicitly teach a marketplace. On the other hand, Huttenlocher discloses a marketplace (para. 0032 and 0036). He discloses allows a buyer or seller of an asset to choose what portion of the audience in an electronic marketplace will see the order. In a marketplace, particularly one with illiquid assets, a participant wants his order to be shown to potentially interested participants such that a trade can take place. Thus, it would have been obvious to one of ordinary skill in the art to enable a marketplace to buy or sell of an asset in financial instruments because collateralized loans are a type of an asset in financial instruments.

Furthermore, Pretell and Huttenlocher do not explicitly teach firm offer to lend using collateral. On the other hand, Finklestein discloses firm offer to lend using collateral (para. 0038). He defines the objective criteria that must be satisfied to create a firm offer or bid. Thus, it would have been obvious to one of ordinary skill in the art to enable collateralized loans by creating a firm offer so no further negotiations are required.

Re claim **2**, Pretell teaches servicing the secured loan according to the data specifying conditions under which the lender will supply a loan to a borrower (para. 0054).

Re claims **3, 12, and 20**, Pretell and Huttenlocher teach a method, system, and a computer program as claimed in claim 1. Therefore the rationale applied in the rejection of claim 1 applies herein.

Re claims **4** and **13**, Pretell teaches servicing the secured loan according to the attributes of the lender's offer to lend and the attributes of the borrower's offer to borrow (para. 0042).

Re claims **5** and **14**, Pretell teaches monitoring a value of the fungible collateral asset periodically and requesting an additional fungible collateral asset from the borrower if the value of the fungible collateral asset is less than a predetermined value (fig. 16a).

Re claims **6** and **15**, Pretell teaches determining whether the secured loan has reached maturity according to the loan term, determining whether the borrower has provided the loaned asset and a loan fee, when the loan reaches maturity, and transferring the fungible collateral asset to the lender if the borrower has not provided the loaned asset and a loan fee when the loan reaches maturity (para. 0053).

Re claims **7** and **16**, Pretell teaches transferring the loaned asset from the lender to an operator and transferring the loaned asset from the operator to a borrower (figs. 16a-18a).

Re claims **8** and **17**, Pretell teaches comparing the attributes of an offer to lend to the attributes of each of the plurality of offers to borrow when the offer to lend is received (fig. 19a).

Re claims **9** and **18**, Pretell teaches comparing the attributes of each of the received plurality of offers to lend to the attributes of each of the plurality of offers to borrow at a predetermined time (figs. 18a-19a).

Re claims **10** and **19**, Pretell teaches fungible collateral asset is a specified quantity of a specified homogenous asset, and wherein the specified homogenous asset is one of the group comprising: a specific common stock, a specific bond, and cash (para. 0052).

Re claim **11**, Pretell teaches fungible collateral asset is a portfolio of various fungible assets (figs. 13a-16a).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached during her flextime schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Thu Thao Havan
Art Unit 3693